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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/662,962 | 09/15/2003 | Shawn Nelson | 15605.1.1 | 1090 |
| 22913 | 7590 | 07/02/2004 | EXAMINER | |
| WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111 | | | HUYNH, LOUIS K | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3721 | |
| DATE MAILED: 07/02/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/662,962 | Applicant(s) NELSON, SHAWN | |
| | Examiner Louis K. Huynh | Art Unit 3721 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-18 is/are rejected.
- 7) ☐ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4/16/03 & 10/9/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5 and 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5, line 1: "the storage container" lacks proper antecedent basis. Perhaps, Claim 5 should depend on Claim 4.

Claim 12, line 1: "and shipping a chair" renders the scope of the claim indefinite for the step of shipping is not set forth in the body of the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 5, 8-12, 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Keltner (US 3,968,620).

With respect to Claim 1, Keltner discloses a method for packaging a chair including the steps of: providing an article (1) comprising an air permeable bladder (cloth fabric cover) filled with light density flexible polyurethane foam; placing the article in a vacuum chamber (plastic bag 3); removing a substantial amount of air from the article (col. 2, lines 7-20); allowing the

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article to partially refill with air by simply taping or tying opening of the vacuum chamber to create a partial opening for the vacuum chamber (col. 2, lines 32-37). Note that the article used in the method of Keltner is foam chair or couch (col. 2, lines 64-68).

With respect to Claim 2, air is removed by suctioning the air from the article using a vacuum source in the method of Keltner (col. 2, lines 7-17).

With respect to Claims 4 & 5, the method of Keltner further includes a step of placing the vacuum chamber with the article therein into a storage container (2) having flaps (8) for sealing the opening of the storage container; and a step of sealing the storage container by sealing the flaps (8); and wherein the vacuum chamber (3) is allowed to remain partially open after the article and the vacuum chamber are placed in the storage container (2) (col. 2, lines 29-37).

With respect to Claims 8-11, the article (1) is compressed to less than 20% of its original volume (col. 1, lines 56-64) which meets the limitations as claimed in Claims 8-11.

With respect to Claim 12, Keltner discloses a method for packaging a chair including the steps of: forming furniture assembly by providing an article (1) comprising an air permeable bladder (cloth fabric cover) filled with light density flexible polyurethane foam and placing the article in a vacuum chamber (plastic bag 3); connecting the vacuum chamber in communication with a vacuum source (col. 2, lines 7-17); compressing the article using the vacuum source (col. 2, lines 17-20); placing the furniture assembly in a storage container (2) with the vacuum chamber unsealed (col. 2, lines 29-32). Note that the article used in the method of Keltner is foam chair or couch (col. 2, lines 64-68).

With respect to Claims 14 and 15, the article (1) is compressed to less than 20% of its original volume (col. 1, lines 56-64) which meets the limitations as claimed in Claims 14 and 15.

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With respect to Claim 16, Keltner further discloses a step of removing the packaged furniture assembly from the storage container and removing the article from the vacuum chamber, wherein the chair refills to substantially the original volume after removal from the vacuum chamber (col. 2, lines 38-40).

With respect to Claim 17, Keltner discloses a method for manufacturing and packaging an article (1) including the steps of: providing an air permeable bladder (cloth fabric cover); placing a filler material (light density flexible polyurethane foam) within the air permeable bladder; and suctioning a substantial amount of air from the article with a vacuum source (col. 2, lines 7-20). Note that the article used in the method of Keltner is foam chair or couch (col. 2, lines 64-68).

With respect to Claim 18, the method of Keltner further includes the step of placing the article (1) in a storage container (2) wherein the article is allowed to partially refill with air while in the storage container (col. 2, lines 29-32) and is allowed to refill with air when removed from the storage container (col. 2, lines 38-40).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keltner (US 3,968,620).

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7. The method of Keltner meets all of applicant's claimed subject matter but lacks the specific teaching of a step of connecting the vacuum chamber in communication with a high-powered vacuum source. However, Keltner discloses that higher volume reductions may be obtained with further pressure reductions (col. 3, lines 23-24); therefore, it would have been obvious to an ordinary skilled person in the art, at the time the invention was made, to have modified the method of Keltner by having connected the vacuum chamber with a higher powered vacuum source, as suggested by Keltner, in order to further reduce the volume of the article thus saving storage space.

Allowable Subject Matter

8. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

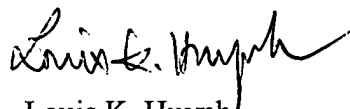
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied prior art.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (703) 306-5694. The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Louis K. Huynh
Patent Examiner
Art Unit 3721

June 28, 2004